

**Before the
Federal Communications Commission
Washington D.C. 20554**

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| In the Matter of |) | |
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| 2002 Biennial Review of |) | CG Docket No. 02-311 |
| Telecommunications Regulations |) | |
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COMMENTS OF THE AMERICAN FOUNDATION FOR THE BLIND

October 18, 2002

The American Foundation For The Blind (AFB) is pleased to provide comments in response to the Commission's 2002 biennial review of telecommunications regulations pursuant to Section 11 of the Communications Act of 1934, as amended, 47 U.S.C. Section 161.

The mission of AFB is to enable people who are blind or visually impaired to achieve equality of access and opportunity that will ensure freedom of choice in their lives.

We address our comments specifically to issues relating to the Report and Order in the matter of "Access to Telecommunications Service, Telecommunications Equipment, and Customer Premises Equipment by Persons With Disabilities" (WT Docket No. 96-198).

AFB has filed comments at every opportunity in these proceedings related to Section 255 of the Telecommunications Act of 1996, Public Law No. 104-104, 110 stat. 56 (1996). We strongly believe that, through the Report and Order implementing Section 255, the Commission has outlined a set of regulations that are critical to meeting access obligations for consumers with disabilities.

Given the emphatic Congressional record on Section 255 proceedings and the Commission's own comments with respect to this Report and Order, we urge the Commission to reject arguments which would purport to modify or reject this rule based on the possibility that economic competition alone would adequately ensure accessibility of telecommunications services and equipment. The enactment of Section 255 and the record leading up to its passage clearly indicate that market forces will not ensure access by persons with disabilities. Congress clearly stated that its intent in enacting Section 255 was to

foster the design, development, and inclusion of new features in communications technologies that permit more ready accessibility of communications technology by individuals with disabilities. (S. Rept. 104-23)

The fact that there are as yet relatively few examples of telecommunications access achievements for people who are blind or visually impaired in the three years since the

publication of the Report and Order is a disappointment but it also reaffirms the need for more vigorous implementation and enhanced enforcement of the Section 255 rules. We remain optimistic that the Report and Order implementing Section 255 will have its greatest impact on a going-forward basis as companies implement the Commission's accessibility rule through product design and resource planning and as consumers become more familiar with their rights under the Report and Order. For example, recent announcement of new technologies in memory chips which will boost computing power, date-storage capacity, and battery life could significantly enhance product design for accessible telecommunications equipment. However, if past performance is a good measure, market factors alone will not be sufficient to ensure these advances are brought to bear on providing accessible telecommunications equipment and services.

Appropriate FCC guidance and targeted enforcement actions based on this rule will provide the incentives for meaningful action on accessibility. In this respect, we agree with the optimistic view expressed by Chairman Michael Powell in his separate statement attached to the Report and Order implementing Section 255. Chairman Powell, then a Commissioner, stated:

These law-abiding entities (which I would suggest represent a vast majority of our corporate citizens subject to Section 255) will have no fear of our actions today or enforcement actions tomorrow.

The Commission also asks for recommendations and justifications regarding modifications of rules cited in this instant proceeding. AFB asks the Commission to review the record established in the Notice of Inquiry (NOI) attached to the Section 255 Report and Order. The NOI sought clarification on access issues presented by communications services and equipment not covered by the rules adopted in that order. AFB has offered comments regarding these thoughtfully constructed questions which, in summary, ask the Commission to rethink its categorization of various communication services and to reach the conclusion that many of the services previously classified as "enhanced" or "information" services are functionally "telecommunications" services and that equipment that enables those functions are squarely within the definition of customer premises equipment. (AFB Comments to WT Docket No. 96-198, Further Notice of Inquiry). We believe that the record established in that proceeding and the opportunity presented by this biennial review justifies action by the Commission to set forth a specific Report and Order based on the NOI.

Respectfully submitted:

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